IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.129 OF 2006

Sau Sonali Nitin Patil ...Applicant

Versus

Nitin Mohal Patil ...Respondent

Shri S.M.Sabrad i/by Shri R.D.Suryawanshi for the Applicant.

Shri A.A.Garge for the Respondent.

CORAM : ABHAY S.OKA, J.
DATED : MARCH 15, 2007.

P.C.:

1. The Advocate for the Applicant states that amicable settlement is not possible. The Advocate for the Respondent states that without prejudice to his rights and contentions, the Respondent is ready and willing to agree for divorce by mutual consent. As settlement is not possible as of today, I have taken up the Application for hearing.

2. The Applicant is the wife and the Respondent is her husband. The Respondent filed a Petition in the court of the Civil Judge Senior Division at Dhule praying for declaration that the marriage between the Applicant and the Respondent was nullity. In the alternative, a prayer was made in the said Petition for decree of divorce.

3. The Applicant wife is praying for transfer of the said Petition to the court of the Civil Judge Senior Division at Thane on the ground that she is a resident of Thane and she finds it very difficult to attend the Court at Dhule. The second ground is that even the Respondent is at present residing at Thane and therefore there will not be any prejudice to the Respondent if order of transfer is passed. The Advocate for the Respondent has opposed the prayer for transfer. He pointed out that the Respondent is a permanent resident of Dhule. However, for the purpose of employment at present he is residing at Thane.

4. I have considered the submissions. It is not in dispute that from the date of institution of the said Petition till today the Respondent is residing at Thane. In the cause title of the marriage petition filed by the Respondent, he has disclosed that on the date of filing of the Petition he was a resident of Thane. It is not in dispute that the Applicant is a resident of Thane. It is pointed out in the Application that distance between Thane and Dhule is nearly 400 Kms. The Applicant has stated that none of her relatives are staying at Dhule and therefore, it is very difficult for her to stay at Dhule.

5. In my view, the aforesaid grounds are sufficient to pass order of transfer. Hence, I pass the following order:

(i) Hindu Marriage Petition No.187 of 2006 pending in the Court of the learned Civil Judge Senior Division at Dhule is hereby transferred to the court of the learned Civil Judge Senior Division at Thane for hearing and final disposal.

(ii) The learned Civil Judge Senior Division at Dhule will transfer the papers of the Petition to the concerned Court immediately on production of an authenticated copy of this order.

(iii) The learned Civil Judge Senior Division at Thane will endeavour to decide the Petition expeditiously and preferably on or before 31st March, 2008.

(iv) Writ to be sent immediately.

(v) No orders as to costs.

JUDGE